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LITIGATION BUREAU

August 30, 2023

**By ECF**

Honorable David N. Hurd  
United States District Judge  
Northern District of New York  
Alexander Pirnie Federal Bldg. and U.S. Courthouse  
10 Broad Street  
Utica, New York 13501

Re: *Dr. A., et al., v. Hochul, et al.*, 21-CV-1009 (DNH)(ML)

Dear Judge Hurd:

As directed by the Court's June 5, 2023 Text Order, I write to provide a status report in this matter. As indicated in our prior status letter, the Department of Health is in the process of repealing 10 NYCRR § 2.61, the emergency regulation at issue in this action. On June 28, 2023, the Department published a proposed rule repealing Section 2.61 in the New York State Register.

The public comment period for the proposed rule recently expired on August 28, 2023. The Department is now in the process of reviewing the public comments. Upon completion of that review, the Public Health and Health Planning Council must approve the repeal. In light of the above progress toward the repeal of the challenged regulation, Defendants respectfully request permission to submit a further status report on or before September 29, 2023.

Thank you for your consideration of this request.

Respectfully submitted,

**s/ Ryan W. Hickey**  
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cc: All counsel of record (via ECF)